

GARVEY, BALLOU

A PROFESSIONAL CORPORATION

COUNSELLORS AT LAW

(732) 341-1212

Attorneys for Defendant, Costco Wholesale Corp

Our File No. 131.25651- RAB/dg

Attorney ID#: 01738182

ELISE KLING

Plaintiff(s),

vs.

COSTCO WHOLESALE CORP D/B/A
COSTCO, ABC CORP(S) 1-100 AND
JOHN DOE(S) 1-100

Defendant(s)

Superior Court of New Jersey
Law Division
Burlington County

DOCKET NO. BUR-2581-21

Civil Action

**NOTICE TO ADVERSARY OF REMOVAL
OF ACTION**

TO: Michael H. Glassman, Esq.
1103 Laurel Oak Road
Suite 140
Voorhees, NJ

Sir/Madam:

PLEASE TAKE NOTICE that in the above entitled action, defendant, Costco Wholesale Corporation, have this day filed a Notice of Removal, a copy of which is attached hereto, in the Office of the Clerk of the United States District Court for the District of New Jersey. You are also advised that the defendant, upon filing of said Notice of Removal, filed a copy of the Notice with the Clerk of the Superior Court of New Jersey, Law Division, Ocean County, which has effected this removal, in accordance with 28 U.S.C. § 1446 (B).

GARVEY BALLOU

BY: Robert A. Ballou
ROBERT A. BALLOU, JR
Attorneys for Defendant
Costco Wholesale Corporation

DATED: January 22, 2022

GARVEY, BALLOU

A PROFESSIONAL CORPORATION

COUNSELLORS AT LAW

(732) 341-1212

Attorneys for Defendant, Costco Wholesale Corp

Our File No. 131.25651- RAB/dg

Attorney ID#: 01738182

ELISE KLING

Plaintiff(s),

vs.

COSTCO WHOLESALE CORP D/B/A
COSTCO, ABC CORP(S) 1-100 AND
JOHN DOE(S) 1-100

Defendant(s)

Superior Court of New Jersey
Law Division
Burlington County

DOCKET NO. BUR-2581-21

Civil Action

Notice of Removal of State Court Action to U.S. District Court

PLEASE TAKE NOTICE that defendant Costco Wholesale Corporation ("Costco"), through its undersigned counsel, hereby files this Amended Notice of Removal pursuant to 28 U.S.C. §1446. Costco hereby removes to the District Court of New Jersey all claims and causes of action in the civil action ***Elise Kling v. Costco Wholesale Corporation, et. al., Docket No., BUR-L-2581-21*** now pending in the Superior Court of New Jersey, Law Division, Burlington County (the "State Court Action").

The grounds for removal are as follows:

28 U.S.C. § 1446

1. On December 22, 2019, plaintiff, Elise Kling residing in Mt. Holly, Burlington County, New Jersey, filed a Complaint in the Superior Court, Law Division, Burlington County against Costco Wholesale Corporation asserting a claim under State Law.

2. This Notice of Removal is filed in the United States District Court for the District of New Jersey, the District Court of the United States for the District and Division within which the State Action is pending. 28 U.S.C. § 1446(a); 1441(a).

3. This Notice of Removal is signed pursuant to Rule 11 of the Federal Rules of Civil Procedure. 28 U.S.C. § 1446(a).

4. Annexed hereto as Exhibit "A" is a copy of the Complaint and process served upon the defendant in the State Action. 28 U.S.C. § 1446(a).

5. The Complaint was filed on December 6, 2021, and served upon defendant.

6. As of this date, none of the defendants have filed a responsive pleading in the action commenced by plaintiff in the Superior Court of New Jersey, Law Division, Burlington County, and no other proceedings have transpired in that action.

7. The Complaint arises from the plaintiffs' contention that on December 22, 2019, while at Costco Wholesale Store #340 located at 100 Centerton Road Mt. Holly, New Jersey when she slipped and fell. She claims personal injuries as a result for which she seeks damages.

8. It is clear the amount in controversy will exceed \$75,000. In that regard, this factor for removal is based upon allegations in the Complaint as to the plaintiffs' injuries as noted above.

9. As of the filing of this Notice of Removal, the undersigned has no knowledge that any other defendant has been successfully served pursuant to 28 U.S.C. § 1446(b)(2)(A) and therefore cannot and need not obtain consent of the other named defendant.

10. This Notice is now filed with the Court on January 22, 2022 within thirty (30) days after the receipt by the defendant, through service or otherwise, of a copy of the initial pleading setting forth the claim for relief upon which such action or proceeding is based, and within one (1) year of commencement of the State Action. 28 U.S.C. § 1446(b).

11. Annexed hereto as Exhibit "B" is the Notice to the Clerk of the Superior Court Burlington County of Removal of Action to the United States District Court with regard to the State Action, which will be filed with the Clerk upon return of this Notice of Removal stamped "received". 28 U.S.C. § 1446(d).

12. Annexed hereto as Exhibit "C" is the Notice to Adversary of Removal of Action, which will be served promptly upon return of this Notice of Removal stamped "received". 28 U.S.C. § 1446(d).

28 U.S.C. § 1441

13. This Notice of Removal is filed in the District of New Jersey, the District Court of the United States for the District and Division embracing the place where the State Action is pending. 28 U.S.C. § 1441(a); 1446(a).

14. The plaintiff is a citizen of the State of New Jersey, residing at 157 Hickory Street, Mt. Holly, NJ

15. Defendant, Costco is a Corporation with its principle place of business in the State of Washington where it was incorporated and where it

has its principle place of business with corporate headquarters located at 999 Lake Dr., Issaquah, Washington 98027.

16. The State Action is a Civil Action of which District Courts of the United States have original jurisdiction by virtue of a claim where the matter in controversy exceeds the sum or value of Seventy Five Thousand (\$75,000.00) Dollars, exclusive of interest and costs and is between citizens of different states. 28 U.S.C. § 1332(a).

17. Since our original filing, I have spoken with plaintiff's Michael H. Glassman, Esq. following-up on my Request for Statement of Damages. He has advised that this case does have a value in excess of \$75,000.00. Based upon the foregoing, he was unable to stipulate plaintiff's damages in an amount below \$75,000.00.

WHEREFORE, please take notice that this cause should proceed in the United States District Court for the District of New Jersey, as an action properly removed thereto.

GARVEY BALLOU

BY: Robert A. Ballou
ROBERT A. BALLOU, JR
Attorneys for Defendant
Costco Wholesale Corporation

Dated: January 22, 2022

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

ELISE KLING

Plaintiff(s),

vs.

COSTCO WHOLESALE CORPORATION
/B/A COSTCO WHOLESALE, J. DOE
(A THROUGH Z), J. SMITH (A
THROUGH Z) AND ABC COMPANY (A
THROUGH Z)

Defendant(s)

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: Burlington

**NOTICE TO THE CLERK OF THE
SUPERIOR COURT BURLINGTON
COUNTY OF REMOVAL OF ACTION
TO THE UNITED STATES DISTRICT
COURT**

Civil Action

Case No. BUR-2581-21

TO: Burlington Count Superior Court
49 Rancocas Road.
Mt. Holly, NJ 08060.

Sir/Madam:

PLEASE TAKE NOTICE that attached hereto is a copy of a Notice of Removal of this case, which has been filed with the Clerk of the United States District Court for the District of New Jersey, removing this action to federal court.

GARVEY BALLOU

BY: Robert A Ballou

ROBERT A. BALLOU, JR
Attorneys for Defendant
Costco Wholesale Corporation

Dated: January 22, 2022